

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GINO Q. ESPINOSA,  
Plaintiff,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, et al.,  
Defendants.

Case No. 17-cv-01766-KAW

**ORDER DISCHARGING ORDER TO  
SHOW CAUSE; REQUIRING  
PLAINTIFF TO FILE DISMISSAL**

Re: Dkt. No. 42

On March 29, 2018, the parties held a settlement conference, in which the case was settled in full. (Dkt. No. 36.) The settlement terms were placed on the record. (*Id.*) On April 5, 2018, the Court ordered Plaintiff to file a dismissal within 60 days of the date of the order, absent any extension ordered by the Court. (Dkt. No. 37.) After Plaintiff failed to file a timely dismissal, the Court ordered Plaintiff to file a dismissal or for the parties to file a joint status report explaining why the case has yet to be dismissed by June 22, 2018. (Dkt. No. 38.)

On June 22, 2018, Defendant filed a status report, stating that Defendant was waiting for Plaintiff to send back the Request for Dismissal and Proposed Order of Dismissal, which was sent on May 31, 2018. (Dkt. No. 39 at 2.) Defendant also stated that once received, Defendant would need approximately 45 days to finalize the settlement. (Dkt. No. 39.) Plaintiff did not respond to the Court's order.

On June 29, 2018, the Court ordered Plaintiff to file a dismissal within 60 days of the date of the order, or for the parties to file a joint status report explaining why the case has yet to be dismissed. The Court warned that if Plaintiff again failed to file a dismissal or joint status report, the Court would issue an order to show cause as to why Plaintiff should not be sanctioned for repeatedly failing to comply with court orders.

Plaintiff did not file a dismissal or joint status report. On September 10, 2018, the Court issued an order to show cause, ordering Plaintiff to show why he should not be sanctioned for failing to comply with court orders by: (1) filing a dismissal or joint status report, and (2) explaining why Plaintiff failed to comply with the Court's prior two orders. (Dkt. No. 41.)


On September 24, 2018, Plaintiff's counsel filed a declaration stating that Plaintiff "does not intend to sign and return the Settlement Agreement in this matter, nor does he intend to allow Counsel to file a Request for Dismissal on his behalf." (Hashim Decl. ¶ 2, Dkt. No. 42.) Plaintiff's counsel further stated that he was "not able to articulate to the Court, what Plaintiff's intentions are with respect to Plaintiff's future actions in this matter." (Hashim Decl. ¶ 3.)

In light of the response, the Court DISCHARGES the order to show cause. (Dkt. No. 41.) As to Plaintiff's refusal to sign and return the Settlement Agreement, the Court finds that the case was settled in full and the terms placed on the record. (*See* Dkt. No. 36.) The terms that were placed on the record are binding, regardless of whether Plaintiff signs the Settlement Agreement. Plaintiff has not offered any reason for his refusal to sign, why the Court should find the settlement should not be binding, and why the Court should not dismiss the case given there is a binding settlement agreement of the case in full.

Accordingly, the Court ORDERS Plaintiff to file a dismissal within two weeks of the date of this order. If Plaintiff fails to do so, the Court shall reassign this case to a district judge with the recommendation that the case be dismissed with prejudice, in light of the binding settlement agreement.<sup>1</sup>

IT IS SO ORDERED.

Dated: September 24, 2018

  
KANDIS A. WESTMORE  
United States Magistrate Judge

<sup>1</sup> The Court is unable to dismiss the case because Defendant Vicki L. Hennessy has not been served and has not appeared in this case, and has therefore not consented to magistrate judge jurisdiction.